

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

LIVINGSTON ENTERPRISES, INC.,

Plaintiff,

vs.

LEXTRON, INC., a Colorado corporation;  
ANIMAL HEALTH INTERNATIONAL,  
INC., a Colorado corporation; and  
BOEHRINGER INGELHEIM  
VETMEDICA, INC., a Delaware  
corporation;

Defendants.

**8:11CV352**

**AMENDED PROGRESSION ORDER**

ANIMAL HEALTH INTERNATIONAL,  
INC., a Colorado corporation;

Plaintiff,

vs.

LIVINGSTON ENTERPRISES, INC., a  
Nebraska corporation;

Defendant.

**8:12CV144**

**AMENDED PROGRESSION ORDER**

This matter is before the court on the Plaintiff Livingston Enterprises, Inc.'s motions to extend certain deadlines related to its claims against defendant Boehringer Ingelheim Vetametica, Inc. The fourth motions to extend deadlines related to its claims against Boehringer Ingelheim Vetmedica, Inc., (filing no. 83; case no. 8:11cv352 and filing no. 61; case 8:12cv144) are granted.

IT IS ORDERED:

- 1) The jury trial of this case is set to commence before John M. Gerrard, United States District Judge, in Special Proceedings Courtroom, United States Courthouse, Omaha, Nebraska at 9:00 a.m. on **October 21, 2014**, or as soon thereafter as the case may be called, for a duration of seven (7) trial days. This case is subject to the prior trial of criminal cases and such other

civil cases as may be scheduled for trial before this one. Jury selection will be held at commencement of trial.

- 2) The Pretrial Conference is scheduled to be held before the undersigned magistrate judge on **October 6, 2014 at 10:00 a.m.**, and will be conducted by WebEx conferencing. To facilitate this conferencing method, the parties' proposed Pretrial Conference Order and Exhibit List(s) must be emailed to [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov), in either Word Perfect or Word format, by 5:00 p.m. on October 2, 2014. An email will be sent to counsel of record with the instructions and codes for participating in the pretrial conference by WebEx.
- 3) A telephonic conference with the undersigned magistrate judge will be held on **May 12, 2014 at 9:30 a.m.** to discuss the status of case progression and potential settlement. Counsel for plaintiff shall place the call.
- 4) The deadlines for moving to amend pleadings or add parties are:

For the plaintiff(s):	October 28, 2013
For the defendant(s):	November 26, 2013
- 5) As to all issues (both liability and damages) on all claims and defenses between all parties, Livingston may take 15 depositions; Animal Health and Boehringer may, collectively, take 20 depositions.
- 6) As to the **liability** issues, and defenses on such issues, on all claims between Livingston and Boehringer:
  - a. The deadlines for serving complete expert disclosures for liability experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:

For Livingston:	October 28, 2013
For Boehringer:	December 3, 2013
  - b. The deadline for completing discovery (both written and deposition) is January 13, 2014. Motions to compel Rule 33 through 36 written discovery must be filed by December 30, 2013.
  - c. As to the **liability** issues, and related defenses, on claims between Livingston and Boehringer, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is February 13, 2014.

- 7) As to the **liability** issues, and defenses on such issues, on all claims between Livingston and Animal Health:
- a. The deadlines for identifying liability expert witnesses expected to testify at the trial are:  

For Livingston:	January 30, 2014
For Animal Health:	February 27, 2014
  - b. The deadlines for serving complete expert disclosures for liability experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:  

For Livingston:	April 29, 2014
For Animal Health:	May 29, 2014
  - c. The deadline for completing written discovery is May 29, 2014. Motions to compel Rule 33 through 36 written discovery must be filed by May 14, 2014.
  - d. The deposition deadline is June 10, 2014.
  - e. As the **liability** issues, and related defenses, on claims between Livingston and Animal Health, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is June 26, 2014.
- 8) As to the **damage** issues, and defenses to such issues, on all claims between all parties:
- a. The deadlines for identifying damage expert witnesses expected to testify at the trial are:  

For Livingston:	January 30, 2014
For Animal Health and Boehringer:	February 27, 2014
  - b. The deadlines for serving complete expert disclosures for damage experts, (both retained experts, (Fed. R. Civ. P. 26(a)(2)(B)), and non-retained experts, (Fed. R. Civ. P. 26(a)(2)(C)), are:  

For Livingston:	April 29, 2014
For Animal Health and Boehringer:	May 29, 2014

- c. The deadline for completing written discovery is May 29, 2014. Motions to compel Rule 33 through 36 written discovery must be filed by May 14, 2014.
- d. The deposition deadline is June 10, 2014.
- e. As to the issue of **damages**, and all related defenses, on all claims between all parties, the deadline for filing motions to dismiss, motions for summary judgment, and motions to exclude testimony on *Daubert* and related grounds is June 26, 2014.

July 30, 2013.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge